

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION**

CHRISTOPHER L. ROLLER
ADC #147798

PLAINTIFF

v.

5:12CV00245-KGB-JJV

MARTIN ZOLDESSY,
Corizon Medical Health; *et al.*,

DEFENDANTS

PROPOSED FINDINGS AND RECOMMENDATIONS

INSTRUCTIONS

The following recommended disposition has been sent to United States District Judge Kristine G. Baker. Any party may serve and file written objections to this recommendation. Objections should be specific and should include the factual or legal basis for the objection. If the objection is to a factual finding, specifically identify that finding and the evidence that supports your objection. An original and one copy of your objections must be received in the office of the United States District Court Clerk no later than fourteen (14) days from the date of the findings and recommendations. The copy will be furnished to the opposing party. Failure to file timely objections may result in a waiver of the right to appeal questions of fact.

If you are objecting to the recommendation and also desire to submit new, different, or additional evidence, and to have a new hearing for this purpose before either the District Judge or Magistrate Judge, you must, at the time you file your written objections, include the following:

1. Why the record made before the Magistrate Judge is inadequate.
2. Why the evidence to be proffered at the new hearing (if such a hearing is granted) was not offered at the hearing before the Magistrate Judge.
3. The details of any testimony desired to be introduced at the new hearing in the form

of an offer of proof, and a copy, or the original, of any documentary or other non-testimonial evidence desired to be introduced at the new hearing.

From this submission, the District Judge will determine the necessity for an additional evidentiary hearing. Mail your objections and “Statement of Necessity” to:

Clerk, United States District Court
Eastern District of Arkansas
600 West Capitol Avenue, Suite A149
Little Rock, AR 72201-3325

DISPOSITION

Before the Court is the medical Defendants’ Motion to Dismiss for Failure to Prosecute. (Doc. 36.) Defendants filed their Motion on June 19, 2013, but on June 24, 2013, the Court discovered that Plaintiff’s address had been improperly docketed. So the Court directed the Clerk to correct the address and mail to Plaintiff copies of the docket sheet and two Proposed Findings and Recommendations entered by the undersigned. (Doc. No. 38.)

The docket sheet mailed on June 24, 2013, notified Plaintiff of the pending Motion to Dismiss. (Doc. No. 36, “*MOTION to Dismiss for Lack of Prosecution by Jackson, Sharon King, Moore, Judy Sovay.*”) More than a month has now passed and Plaintiff has been silent.

Rule 41 of the Federal Rules of Civil Procedure state:

If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it. Unless the dismissal order states otherwise, a dismissal under this subdivision (b) and any dismissal not under this rule—except one for lack of jurisdiction, improper venue, or failure to join a party under Rule 19—operates as an adjudication on the merits.

FED. R. CIV. P. 41(b).

The record supports Defendants’ position that dismissal is appropriate for failure to prosecute. Therefore, it is recommended that Defendants’s Motion to Dismiss should be granted.

If Plaintiff wishes to pursue claims, he should file an Objection to this Proposed Findings and Recommendation within fourteen (14) days.

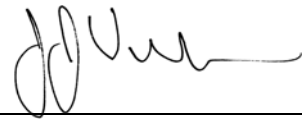
IV. CONCLUSION

IT IS, THEREFORE, RECOMMENDED that:

1. Defendants' Motion to Dismiss for Failure to Prosecute should be GRANTED. (Doc. No. 36.)

2. Plaintiff's Complaint (Doc. No. 2) should be DISMISSED with prejudice in accordance with Fed. R. Civ. P. 41(b).

DATED this 31st day of July, 2013.



JOE J. VOLPE
UNITED STATES MAGISTRATE JUDGE